Submission of Amendment under 37 C.F.R. §1.114 Attorney Docket No.: 062643

Application No.: 10/582,354

Art Unit: 3734

REMARKS

Reconsideration of this application, as presently amended, is respectfully requested.

Claims 1-20 are pending in the present application. Claims 1-20 stand rejected.

Claim Objection

Claim 15 was objected to because of informalities. More specifically, the Examiner

asserts that the language "connected to at an end of the at least one link member" should be

amended to delete either the word "to" or the word "at". Claim 15 has been amended to delete

the term "at". Claim 15 now recites "connected to an end of the at least one link member".

Reconsideration and withdrawal of the objection to claim 15 are earnestly solicited.

Claim Rejections – 35 U.S.C. §112, second paragraph

Claims 2, 6, 9-13 and 17 were rejected under 35 U.S.C. §112, second paragraph, as being

indefinite for allegedly failing to particularly point out and distinctly claim the subject matter

which Applicants regard as the invention. The various bases for the rejections are discussed

separately below.

Claim 2

Claim 2 was rejected because there is insufficient antecedent basis for the recitation "the

drive power transmitting means".

- 12 -

Art Unit: 3734

Attorney Docket No.: 062643

To obviate this basis of the rejection, claim 2 has been amended to change "drive power

transmitting means" to "link mechanism" such that claim 2 recites the invention in a manner

consistent with claim 1 from which claim 2 depends. More specifically, in the previous

Amendment, claim 1 was amended to change "drive power transmitting means" to --link

mechanism--. However, claim 2 was not previously amended in a manner consistent with claim

1. Therefore, claim 2 has been amended to change "drive power transmitting means" to --link

mechanism—such that it is consistent with claim 1.

Claim 2 has also been amended to change "air-tight member" to --air-tight link guide

portion-- in a manner consistent with claim 1.

Claim 6

Claim 6 was rejected for the same reasons as claim 1. That is, the Examiner asserts that

there is insufficient antecedent basis for the recitation "the drive power transmitting means".

Claim 6 has been amended to change "drive power transmitting means" to --link mechanism-- in

a manner consistent with claim 5 from which claim 6 depends.

Claim 6 has also been amended to change "air-tight member" to --air-tight link guide

portion-- in a manner consistent with claim 5.

Claims 9, 12 and 13

Claims 9, 12 and 13 were rejected for the same reasons set forth in the previous Office

Action, that is, the Examiner asserts that the recitation "the magnitude of a moment required for

- 13 -

Art Unit: 3734

starting the bending action of the second articulation portion is larger than a moment required for

the bending action of the first articulation portion" is allegedly indefinite because this recitation

is a functional limitation that is not supported by sufficient structure to accomplish the function.

Initially, it is noted that the Examiner's rationale supporting the rejection under §112,

second paragraph, typically applies to interpreting whether claim language should be treated

under §112, sixth paragraph, and not to a rejection under §112, second paragraph. More

specifically, the case law regarding the interpretation of means-plus-function language indicates

that if the Examiner believes that the claim language does not recite sufficient structure to

perform the recited function, then the claim element should be interpreted under §112, sixth

paragraph, as a means-plus-function element. See, for example, Mass. Inst. of Tech. v. Abacus

Software, 462 F.3d 1344 (Fed. Cir. 2006), where the Court stated, "The phrase 'colorant

selection mechanism' is presumptively not subject to 112 \ 6 because it does not contain the

term "means." However, a limitation lacking the term 'means' may overcome the presumption

against means-plus-function treatment if it is shown that 'the claim term fails to 'recite

sufficiently definite structure' or else recites 'function without reciting sufficient structure for

performing that function. "[Emphasis added.]

In any event, claims 9, 12 and 13 have been amended to obviate the rejection thereto

under §112, second paragraph, by reciting "wherein the second articulation portion includes a

joint portion that is so constructed that the joint portion causes a magnitude of a moment

required for starting the bending action of the second articulation portion to be larger than a

moment required for the bending action of the first articulation portion."

- 14 -

Art Unit: 3734

First, it is submitted that claims 9, 12 and 13 recite sufficient structure to accomplish the

recited function. That is, claims 9, 12 and 13 now explicitly recite the structure which

accomplishes the recited function, that is, the joint portion (e.g., 51a in Fig. 4) of the second

articulation portion is the structure to accomplish the function.

Support for these amendments to claims 9, 12 and 13 is provided, for example, in Fig. 5B

and the description thereof, which illustrate and describe that the joint portion 51a of the second

articulation portion 51 causes a magnitude of a moment required for starting the bending action

of the second articulation portion to be larger than a moment required for the bending action of

the first articulation portion.

Claim 10

Claim 10 was rejected for the same reasons set forth in the previous Office Action, that

is, the Examiner asserts that the recitation "a force generated in a direction along the rotary shaft

is increased between the first coupling portion and the second coupling portion accompanied by

the bending action of the second articulation portion" is allegedly indefinite because this

recitation is a functional limitation that is not supported by sufficient structure to accomplish the

function.

In the previous response, it was argued that the "first coupling portion" and the "second

coupling portion" constitute the structure that supports the recited function. In response, the

Examiner asserts "As there is insufficient structure recited in the description of the first and

second coupling portions to perform the function of 'a force generated in a direction along the

rotary shaft is increased between the first coupling portion and the second coupling portion

- 15 -

Art Unit: 3734

accompanied by the bending action of the second articulation portion", the rejection of the claim

under 112, 2nd paragraph is maintained." See page 15, lines 5-10 of the Office Action.

First, claim 10 has been amended to clarify that it is the structure of the first coupling

portion and the second coupling portion that accomplishes the recited function. That is, claim 10

has been amended to recite "the first coupling portion and the second coupling portion are so

constructed that a force generated in a direction along the rotary shaft is increased between the

first coupling portion and the second coupling portion accompanied by the bending action of the

second articulation portion."

Furthermore, the Examiner's assertion that "there is insufficient structure recited in the

description of the first and second coupling portions to perform the function of 'a force

generated in a direction along the rotary shaft is increased..." is respectfully traversed. More

specifically, first, claim 10 now explicitly recites that the first coupling portion and the second

coupling portion have a structure (i.e., "are so constructed") to accomplish the recited function.

That is, the claim clearly indicates the structure that performs the recited function. Therefore, the

claim recites sufficient structure for performing the recited function because applicants have so

defined the structure which performs the function. Second, applicants are permitted to claim the

invention as broadly as permitted by the prior art. Breadth of a claim is not to be equated with

indefiniteness (see MPEP §2173.04).

- 16 -

Submission of Amendment under 37 C.F.R. §1.114

Application No.: 10/582,354 Art Unit: 3734

Attorney Docket No.: 062643

Claim 17

Claim 17 was rejected because it is allegedly unclear whether the "projecting portion"

(i.e., "the first joint portion has a projecting portion") is the same as the "projection" recited in

claim 15. Claim 17 has been amended such that the language describing the "projection" is

consistent with claim 15.

In view of the foregoing, it is respectfully submitted that the claims particularly point out

and distinctly claim the subject matter which applicants regard as the invention in accordance

with the requirements of §112, second paragraph. Reconsideration and withdrawal of the

rejection under §112, second paragraph, are respectfully requested.

Rejections in view of the Prior Art

Claims 9 and 12-14 were rejected under 35 U.S.C. §102(b) as being anticipated by

Yamashita et al. ("MultiSlider Linkage Mechanism for Endoscopic Forceps", Oct. 2003,

previously cited).

Claim 19 was rejected under 35 U.S.C. §102(b) as being anticipated by or, in the

alternative, under 35 U.S.C. §103(a) as obvious over Yamashita et al.

Claims 1-8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Yamashita

et al. in view of Burbank et al. (USP 5,425,737, newly cited).

Claims 10 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over

Yamashita et al. in view of Kuehn et al. (USP 6,743,239, previously cited).

- 17 -

Art Unit: 3734

Claims 15-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over

Yamashita et al. in view of Barry (USP 5,928,136, previously cited).

Claim 18 was rejected under 35 U.S.C. §103(a) as being unpatentable over Yamashita et

al. in view of Barry.

Claim 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over

Yamashita et al. in view of Barry.

The rejections of each of the independent claims, and claims dependent therefrom, will

be discussed separately below.

<u>Independent claims 1 and 5</u>

For the reasons set forth in detail below, the rejections of independent claims 1 and 5 are

respectfully traversed.

In the previous response, it was argued that Yamashita does not disclose "an air-tight

link guide portion provided in the hollow portion of the cylindrical frame that holds and guides

the link mechanism as the link mechanism moves to transmit the drive power to the movable

means" as recited in each of claims 1 and 5. The Examiner now acknowledges that Yamashita

does not disclose the claimed "air-tight link guide portion" (see the sentence bridging pages 6

and 7 of the Office Action) and applies the newly cited Burbank et al. reference to teach this

feature.

The Burbank et al. reference is directed to a surgical instrument that is inserted into the

body, and having a pair of jaws and a suturing instrument. The Examiner relies on the teaching

- 18 -

Art Unit: 3734

Attorney Docket No.: 062643

in column 6, lines 31-46 of **Burbank**, which discloses a sleeve 88 that "acts as an air seal to

prevent air from entering or exiting the body" (see col. 6, lines 35-36). More particularly, the

surgical instrument includes an elongated shaft 68, which includes elongated slots 70, 72 and 85

for slidably housing a camming rod 34, a driving rod 54 and needle cartridge 22, respectively,

and the sleeve 88 fits over a reduced section 90 of the shaft 68 to contain the proximal ends of

the camming rod 34, driving rod 54 and needle cartridge 22 (see Fig. 3 and col. 6, lines 31-35).

The airtight seal is maintained by providing the driving rod 54 and camming rod 34 with

raised areas (e.g., 92) that contact an inner surface of the sleeve. Further, the needle cartridge 22

includes a flap and a spring that press against the inner surface of the sleeve to maintain the

airtight seal 88. See col. 6, lines 36-46.

However, unlike the invention recited in claims 1 and 5, the sleeve 88 that acts as an air

seal is not "an air-tight link guide portion provided in the hollow portion of the cylindrical frame

[that accommodates the link mechanism]". More specifically, the sleeve 88 is not provided in a

hollow portion that accommodates a link guide mechanism. Instead, the sleeve 88 is the hollow

portion that accommodates a link guide mechanism. That is, the sleeve 88 accommodates the

elongated shaft 68 having elongated slots 70, 72 and 85 that slidably house the camming rod 34,

driving rod 54 and needle cartridge 22. The elongated shaft 68 would be considered a link guide

mechanism that is accommodated in the hollow sleeve 88.

Therefore, Burbank does not alleviate the deficiencies of Yamashita. That is, Burbank

does not disclose "an air-tight link guide portion provided in the hollow portion of the

cylindrical frame that holds and guides the link mechanism as the link mechanism moves to

- 19 -

Submission of Amendment under 37 C.F.R. §1.114 Attorney Docket No.: 062643

Application No.: 10/582,354

Art Unit: 3734

transmit the drive power to the movable means" as recited in each of claims 1 and 5.

Accordingly, the combination of Yamashita and Burbank does not disclose or suggest all

elements of the invention recited in claims 1 and 5, and claims dependent therefrom.

Independent claims 9, 12 and 13

Each of claims 9, 12 and 13, as amended, recite "wherein the second articulation portion

includes a joint portion that is so constructed that the joint portion causes a magnitude of a

moment required for starting the bending action of the second articulation portion to be larger

than a moment required for the bending action of the first articulation portion." [Emphasis

added.]

In the previous response, it was argued that Yamashita does not disclose or suggest the

claimed "the first articulation portion and the second articulation portion are so constructed

that...a magnitude of a moment required for starting the bending action of the second

articulation portion is larger than a moment required for the bending action of the first

articulation portion."

The Examiner responds to the above argument in Item 15, pages 15 and 16 of the Office

Action, as follows:

...as stated in the rejection the moment to start bending at the second portion is greater than that of the first portion, since the forces required for bending at the second articulation portion moves both the first and

second articulation portion which would require more force than moving just one of the articulation portions. More mass is required to move (i.e., the masses of the first and second articulation portions) when

the second articulation portion is moved, so the moment of inertia

- 20 -

Application No.: 10/582,354 Art Unit: 3734 Attorney Docket No.: 062643

> increases and more force is required to move the second articulation portion. [Emphasis added.]

Thus, the Examiner's position is that the first and second articulation portions together have more mass than the first articulation portion alone, and because the first and second articulation portions have more mass, bending at the second articulation portion requires a greater moment to move this greater mass.

However, unlike the presently claimed invention, Yamashita does not disclose or suggest a manipulator wherein the joint portion has a structure that causes a magnitude of a moment required for starting the bending action of the to be larger than a moment required for the bending action of the first articulation portion. More specifically, according to the Examiner's interpretation of the Yamashita reference, it is the mass of the articulation sections (first and second), and not the joint portion, that causes the moment required for starting the bending action of the second articulation portion to be larger than a moment required for the bending action of the first articulation portion.

Accordingly, it is respectfully submitted that **Yamashita** does not disclose or suggest the claimed "wherein the second articulation portion includes a joint portion that is so constructed that the joint portion causes a magnitude of a moment required for starting the bending action of the second articulation portion to be larger than a moment required for the bending action of the first articulation portion" as recited in claims 9, 12 and 13.

Application No.: 10/582,354 Art Unit: 3734

Attorney Docket No.: 062643

<u>Independent Claim 15</u>

For the reasons set forth below, the rejection of claim 15 is respectfully traversed.

In the previous Office Action, the Examiner rejected claim 15 over only Yamashita.

Now the Examiner rejects claim 15 over Yamashita in view of previously cited Barry.

In the previous response, it was argued that Yamashita does not disclose "a first joint

portion connected to an end of the at least one link member, wherein the first joint portion

includes a projection that is releasably connected to a drive power generating means for

generating the drive power" as recited in claim 15. The Examiner apparently agreed with this

argument, as the Examiner now relies on Barry to teach the above-noted feature. In particular,

as indicated in the sentence bridging pages 9 and 10 of the final Office Action, the Examiner

relies on joined together segments 11 of a flexible endoscope, and, more particularly, the

Examiner relies on the teaching of a connecting portion between segments 11 that includes a

hinge pin 25 (which the Examiner considers a "projection") that fits into a hinge aperture 24 (see

Fig. 3 of Barry).

However, Barry does not disclose that the hinge pin 25 (projection) is releasably

connected to a drive power generating means. In fact, Barry teaches that the pins 25 are

attached by adhesive or welding (see col. 3, lines 32-35), and are thus not releasably connected.

Moreover, Barry teaches that the segments 11 (which the Examiner considers to correspond to

the claimed "joint portion") are connected to each other, and does not teach that the segments are

"connected to an end of the at least one link member" and include a projection "connected to a

drive power generating means".

- 22 -

Art Unit: 3734

Therefore, it is respectfully submitted that Barry does not disclose or suggest "a first

joint portion connected to an end of the at least one link member, wherein the first joint portion

includes a projection that is releasably connected to a drive power generating means for

generating the drive power" as recited in claim 15.

<u>Independent claim 18</u>

For the reasons set forth below, the rejection of claim 18 is respectfully traversed.

The Examiner rejects claim 18 over the same combination of references as in the

previous Office Action, that is, the Examiner rejects claim 18 over Yamashita in view of Barry.

In the previous response, it was first argued that neither Yamashita nor Barry disclose

or suggest "a second joint portion connected to the drive power generating means, the second

joint portion including an elastic body having a fitting hole, and the elastic body can be

elastically urged in a direction substantially perpendicular to a transmitting direction of the

drive power".

In response to the above arguments, on page 17, Item 26 of the Office Action, the

Examiner responds as follows:

is not urged in a direction substantially perpendicularly to the transmitting direction of the drive power and the projecting portion and the fitting hole being removable, a recitation of *the intended use of the claimed invention* must result in a structural difference between the

In response to applicant's argument that the elastic body taught by **Barry**

claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. As **Barry** shows the elastic body extending parallel to a longitudinal axis of the device,

the elastic body is capable of being urged perpendicularly to the

- 23 -

Art Unit: 3734

transmitting direction of the drive power (which is parallel to the longitudinal axis of the modified device of **Yamashita** in view of **Barry**).

As will be discussed below, the Examiner has improperly applied the law regarding "statements of intended use".

More specifically, first, contrary to the Examiner's assertion, the recitation regarding the elastic body being urged in a direction substantially perpendicular to a transmitting direction of drive power is clearly *not* a statement of intended use. Therefore, the Examiner's statement that "[if] the prior art structure is capable of performing the intended use, then it meets the claim" is not applicable.

As discussed in the Manual of Patent Examining Procedure (MPEP) §2111.02 II, a "statement of intended use" is a statement, normally found in the preamble, reciting the purpose or intended use of the claimed invention. More specifically, the MPEP §2111.02 II states the following regarding statements of intended use:

During examination, *statements in the preamble reciting the purpose or intended use of the claimed invention* must be evaluated to determine whether the recited purpose or intended use results in a structural difference (or, in the case of process claims, a manipulative difference) between the claimed invention and the prior art. If so, the recitation serves to limit the claim. See, e.g., *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963). [Emphasis added.]

Thus, a "statement of intended use" is a statement of the purpose or intended use of the *entire claimed invention*. The language that the Examiner asserts is a statement of intended use

Art Unit: 3734

Attorney Docket No.: 062643

clearly is not. Therefore, the Examiner's rationale supporting the rejection (i.e., that if the prior

art structure is capable of performing the intended use, then it meets the claim) is not applicable.

Moreover, even assuming, arguendo, that the language noted by the Examiner were a

statement of intended use, the Examiner's statement "[i]f the prior art structure is capable of

performing the intended use, then it meets the claim" is only true when the prior art structure is

the same as the claimed invention (i.e., the prior art structure discloses every element of the

claimed invention) and the only alleged difference is the intended use of the claimed invention.

In other words, the application of the "intended use" doctrine presupposes that the prior art

teaches every element of the claimed invention and that applicant is attempting to distinguish

over the prior art based on a use of the invention. This is clearly not the case with present claim

18.

Second, regarding claim 18, in the previous response, it was argued that neither

Yamashita nor Barry disclose or suggest "wherein the second joint portion is connected to the

drive power generating means in such a manner that the second joint portion is initially

advanced substantially linearly by the drive power of the drive power generating means without

the projecting portion being fitted into the fitting hole, and the projecting portion is arranged

such that the second joint portion is connected to the first joint portion by advancing the second

joint portion substantially linearly until the projecting portion is fitted into the fitting hole while

an urging force is applied to the first joint portion by the elastic body".

In response to this second argument, in the paragraph bridging pages 11 and 12 of the

Office Action, the Examiner asserts:

- 25 -

Application No.: 10/582,354 Art Unit: 3734

Attorney Docket No.: 062643

As there is not explicit structure preventing such a relationship between the first and second joint portions in the modified device of Yamashita et al. in view of Barry, the second joint portion *is capable* that the second joint portion may be initially advanced substantially linearly by the drive power of the drive power generating means without the projecting portion being fitted into the fitting hole, and the projecting portion being arranged such that the second joint portion *is capable of* connecting to the first joint portion by advancing the second joint portion substantially linearly until the projection portion is fitted into the fitting hole while an urging force is applied to the first joint portion by the elastic body. [Emphasis added.]

As will be discussed below, it is respectfully submitted that the Examiner's reasons set forth above supporting the rejection of claim 18 are improper for several reasons.

First, contrary to the Examiner's assertion, there is explicit structure preventing the claimed relationship between the first and second joint portions in the modified device of Yamashita et al. in view of Barry. Specifically, as discussed above, Barry discloses that the segments 11 (which the Examiner considers constitute the first joint portion and the second joint portion, having a projecting portion 25 and a fitting hole 24) are *permanently* attached to each other by such means as welding or adhesive. Therefore, the combination of Yamashita and Barry does not disclose, and would not result in, the invention recited in claim 18, where *the second joint portion is initially advanced substantially linearly by the drive power of the drive power generating means without the projecting portion being fitted into the fitting hole.*

Second, the claim language "wherein the second joint portion is connected to the drive power generating means in such a manner..." defines the manner in which the second joint portion is connected to the drive power generating means and the manner in which the projecting portion fits into the fitting hole in a manner which defines structural relationships between the

Art Unit: 3734

claimed elements. Neither Yamashita nor Barry disclose or suggest these claimed

relationships.

Therefore, for the reasons set forth above, it is respectfully submitted that the

combination of Yamashita and Barry does not disclose or suggest the claimed "a second joint

portion connected to the drive power generating means, the second joint portion including an

elastic body having a fitting hole, and the elastic body can be elastically urged in a direction

substantially perpendicular to a transmitting direction of the drive power" and "wherein the

second joint portion is connected to the drive power generating means in such a manner that the

second joint portion is initially advanced substantially linearly by the drive power of the drive

power generating means without the projecting portion being fitted into the fitting hole, and the

projecting portion is arranged such that the second joint portion is connected to the first joint

portion by advancing the second joint portion substantially linearly until the projecting portion

is fitted into the fitting hole while an urging force is applied to the first joint portion by the

elastic body".

Independent claim 19

Claim 19 has been amended to further define the invention in terms of the arrangement of

the first joint portion and the second joint portion. That is, claim 19 has been amended to define

that the first joint portion and the second joint portion are arranged such that they are not coupled

when the bending action member and the actuator are initially joined together. Support for the

- 27 -

Art Unit: 3734

Attorney Docket No.: 062643

amendment to claim 19 is provided, e.g., on page 26, lines 13-17 of the specification as originally filed.

Claim 19 now recites "the first joint portion and the second joint portion are arranged such that the first joint portion and the second joint portion are not coupled to each other when the bending action member and the actuator are initially joined together, and such that the second joint portion is movable along a transmitting direction of the drive power by the drive power generating means to become coupled to the first joint portion".

In the previous response, it was argued that neither **Yamashita** not **Barry** disclose "a first joint portion provided on the drive power transmitting means and a second joint portion provided on the drive power generating means are provided to be connectable and separable" and "a coupling between the first joint portion and the second joint portion is executed after the bending action member and the actuator are jointed together" as recited in claim 19.

In response to the previously presented arguments regarding claim 19, in Item 25, pages 16 and 17 of the Office Action, the Examiner asserts:

Applicant has noted, the Yamashita et al. reference discloses the unsterilizable portion of the device (containing the actuator with the drive power generating means) as removable from the sterilizable portion of the device (containing the bending action member and drive power transmitting means). Although *silent about the details* of the coupling structure, *there must be* an interface on the drive transmitting means (in sterilizable portion) and on the drive power generating means (in the unsterilizable portion) in order to allow for coupling of the two portions for use of the device. Therefore, as Applicant *has not provided any specific structure for the first joint portion or second joint portion*, the interfaces on the drive transmitting means and the drive power generating means meet the limitations of the claims. [Emphasis added.]

Art Unit: 3734

Attorney Docket No.: 062643

Thus, the examiner's position is that Yamashita must inherently have an interface

connects the part of the manipulator as claimed. In particular, Fig. 5 of Yamashita shows a

manipulator having a sterilizable part (grip, forceps) that is separable from an unsterilizable part

(DC-servomotor, potentiometer). It is apparently the Examiner's position that there inherently

must be some interface that couples the drive power generating means (in the unsterilizable part)

and the drive power transmitting means (in the sterilizable part).

However, claim 19 has been amended to define the invention in terms of the arrangement

of the first joint portion and the second joint portion. That is, claim 19 has been amended to

define that the first joint portion and the second joint portion are arranged such that they are not

coupled when the bending action member and the actuator are initially joined together (see page

26, lines 13-17 of the specification as originally filed).

It is respectfully submitted that Yamashita does not disclose or suggest first and second

joint portions having the particular structural arrangement presently claimed such that the first

joint portion and the second joint portion are not coupled to each other when the bending action

member and the actuator are initially joined together, and such that the second joint portion is

movable along a transmitting direction of the drive power by the drive power generating means

to become coupled to the first joint portion".

It is well settled that anticipation under §102 is established only if all the elements of an

invention, as stated in the claim, are identically set forth in a single prior art reference.

Moreover, it is not sufficient that each element be found somewhere in the reference, the

- 29 -

Art Unit: 3734

Attorney Docket No.: 062643

elements must be arranged as in the claim. Lindemann Maschinenfabrik GMBH v. American

Hoist and Derrick Co., 703 F.2d 1452, 1458 (Fed. Cir. 1984). In view of the foregoing, it is

submitted that the cited prior art does not disclose or suggest all elements recited in claims 9, 12-

14 and 19. Accordingly, reconsideration and withdrawal of the rejection of claims 9, 12-14 and

19 under §102 are respectfully requested.

A rejection under §103 requires that the combination of teachings applied against the

claims must disclose, or at least suggest, all claimed elements. In view of the foregoing, it is

respectfully submitted that the various combinations of Yamashita et al. with Kuehn et al.,

Burbank et al. and Barry do not disclose or suggest all elements recited in the relevant claims.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-8, 10-11 and 15-20

under §103 are respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that all pending claims are in condition for

allowance. A prompt and favorable reconsideration of the rejection and an indication of

allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application,

the Examiner is invited to contact the undersigned attorney at the telephone number indicated

below to arrange for an interview to expedite and complete prosecution of this case.

- 30 -

Application No.: 10/582,354 Submission of Amendment under 37 C.F.R. §1.114 Attorney Docket No.: 062643

Art Unit: 3734

If this paper is not timely filed, Applicants respectfully petition for an appropriate

extension of time. The fees for such an extension or any other fees that may be due with respect

to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

/WILLIAM M. SCHERTLER/

William M. Schertler Attorney for Applicants Registration No. 35,348

Telephone: (202) 822-1100 Facsimile: (202) 822-1111

WMS/ar